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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Jyothis Indirabhai	:	DECISION ON PETITION TO
Application No. 09/935,082	:	WITHDRAW HOLDING OF
Filed: 08/21/2001	:	ABANDONMENT
Attorney Docket No. WIDC-	:	
026/00US	:	

This is a decision on the petition filed on 16 March, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 27 December, 2005, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 17 January, 2007.

Petitioner asserts that the Notice mailed on 27 December, 2005, was not received because it was returned to the USPTO as undeliverable. In particular, petitioner notes that the envelope containing the Office action was stamped "INSUFFICIENT ADDRESS" by the USPS.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that

the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the official file reveals that on 13 September, 2004, a revocation and new power of attorney and change of correspondence address was filed, listing the correspondence address as "Christopher C. Winslade, McAndrews, Held & Malloy, 500 W. Madison Street, Suite 3400, Chicago, IL 60661." However, the final Office action mailed on 27 December, 2005, listed the address as "Christopher C Winslade, McAndrews, Hel & Malloy, Suite 3400, Chicago, IL 60661". Furthermore, the Office communication mailed on 27 December, 2005, was returned to the USPTO as undeliverable on 17 January, 2006. As such, the showing of record is that there was an irregularity in the mailing of the Office action mailed on 27 December, 2005, in that said final Office action was not mailed to the proper address.

The Office apologizes for any inconvenience to petitioner.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Counsel's address has been corrected in Office records.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED**.

The application file is being referred to Technology Center 2600 technical support staff for remailing of the Office action mailed on 27 December, 2005. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

A handwritten signature in black ink, appearing to read "D. Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions